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09/871,420	05/31/2001	William H. Rogers	32669	9288

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EXAMINER

LOFTIS, JOHNNA RONEE

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/871,420

Applicant(s)

ROGERS ET AL.

Examiner

Johnna R. Loftis

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/31/01</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The following is a first office action upon examination of application number 09/871,420.

Claims 1-29 are pending and have been examined on the merits discussed below.

#### ***Claim Objections***

2. Claims 23 and 24 are objected to because of the following informalities: They are duplicate claims both depending from claim 19. Appropriate correction is required.

3. Claims 1-11, 26-29 are objected to because of the following informalities: They all include the following acronyms, CATI, IVR and CTI, which must be spelled out at least one time in the independent claims. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 28 and 29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, claim 28 refers to PM PM cost measures but it is not clear what "PM PM" stands for. In doing some background research, Examiner is assuming, for examination

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purposes, that PM PM, correctly written PM/PM, stands for per member/per month cost measures, but clarification is required in Applicant's next response.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 28 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, claim 28 refers to PM PM cost measures but it is not clear what "PM PM" stands for.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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9. Claims 1-3, 5, 6, 12, 13, 16, 19, 21, 23 and 24 are rejected under 35 U.S.C. 102(a and e) as being anticipated by Gisby, US 5,943,416.

As per claim 1 , Gisby teaches teaches a connection device connected to an external communication system for connecting said communication system to a survey participant; a CATI unit connected to said connection device, wherein said connection device transfers said participant communication connection to a CATI unit when said connection is successful, and further wherein an agent uses said CATI unit to ask said participant manual survey questions; an IVR unit connected to said CATI, wherein said CATI agent transfers said participant's communication connection to said IVR unit for conducting an automated survey, wherein said IVR unit accepts oral responses from said participant; and a database for storing said responses to said manual survey and said automated survey (column 5, lines 17-25 and column 7, lines 6-15 – calls at a telephony switch are selected for survey completion, calls are routed to an IVR or a live agent to complete the survey)

As per claim 2, Gisby teaches a CTI unit, wherein said CTI unit is connected to said connection device to monitor the status of said connection device, and further wherein said CTI unit is connected to said CATI unit to monitor the status of said CATI unit and said agent using said CATI unit; and still further wherein said CTI unit is connected to said IVR unit to monitor said conducting of said automated survey (column 3, lines 7-21 – a CTI processor is used to route callers to the IVR and/or the live agent).

As per claim 3, Gisby teaches CATI agent asks participant for permission to allow IVR unit to conduct said automated survey, and further wherein said IVR unit conducts said

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automated survey according to a predetermined survey format if said participant assents, and still further wherein said CATI agent performs said manual survey according to said predetermined survey format if participant does not assent (column 3, lines 15-30 – determination is made if the caller wishes to participate – caller is routed to either the IVR or a live agent to complete the survey).

As per claim 5, Gisby teaches participant may transfer communication connection from IVR unit to CATI unit by using an oral response, and further wherein the CATI agent then conducts the manual survey at the point on the predetermined survey format wherein said transfer from the IVR unit occurred (column 6, lines 17-26 – calls are routed to the IVR for solicitation of permission and then can be transferred to a live agent for survey completion).

As per claim 6, Gisby teaches the participant uses verbatims to orally communicate opinions to the IVR unit or CATI unit wherein verbatims are stored in a database (column 5, lines 17-58 – participants can orally communicated opinions to IVR or live agent wherein information is stored for later review).

As per claims 12 and 13, they are the means for performing the method of claim 1 therefore the same rejection as applied to claim 1 also applies to claims 12 and 13.

As per claim 16, it is the process performed by the system of claim 1, therefore the same rejection as applied to claim 1 is applied to claim 16.

As per claim 19, it is the process performed by the system of claim 3, therefore the same rejection as applied to claim 3 is applied to claim 19.

As per claim 21, it is the process performed by the system of claim 5, therefore the same rejection as applied to claim 5 is applied to claim 21.

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As per claims 23 and 24, Gisby teaches processing survey information, storing information in a database and presenting information (column 5, lines 42-60).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 4, 7-11, 14, 15, 17, 18, 20, 22, 25 and 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Gisby, US 5,943,416.

As per claim 4, 17, 18, 20, 22 Gisby does not explicitly teach using a drill down survey technique, however, it is old and well known in the art of automated surveys to utilize drill down survey techniques. It would have been obvious to one of ordinary skill in the art at the time of the invention to include drill-down questions in the automated survey system of Gisby since drill-down questions help you to get a much deeper understanding the survey topic. The process helps you to recognize and understand the factors that contribute to it. Drilling down prompts you to link information that you had not initially associated with a problem. It also shows exactly where you need further information.

As per claims 7-9 and 15, Gisby does not explicitly teach processing and presenting survey information to the consumer within 24 hours of the completion of the conducting of said surveys, however, it is old and well known in the art of automated surveys to compile the results and present the information to the participants for their viewing. By processing the presenting

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the survey information to the consumers they will have a clear understanding of how their personal views either agree or disagree with the population of other survey participants.

As per claims 10 and 11, they are the system for collecting and presenting survey information as disclosed in claims 1-3 and 5-9, therefore, the same rejections as applied above, also apply to claims 10 and 11.

As per claims 14, it is directed to the means for performing the method of claim 8 therefore the same rejection as applied to claim 8 is applied to claim 14.

As per claim 25, it is the process performed by claims 1-3 and therefore the same rejection as applied to claim 1-3 is also applied to claim 25. In addition, Gisby does not explicitly teach using a drill down survey technique, however, it is old and well known in the art of automated surveys to utilize drill down survey techniques. It would have been obvious to one of ordinary skill in the art at the time of the invention to include drill-down questions in the automated survey system of Gisby since drill-down questions help you to get a much deeper understanding the survey topic. The process helps you to recognize and understand the factors that contribute to it. Drilling down prompts you to link information that you had not initially associated with a problem. It also shows exactly where you need further information.

As per claim 26, it is the process performed by claims 1-3, and therefore the same rejection as applied to claims 1-3 is applied. In addition, Gisby does not explicitly teach using a drill down survey technique, however, it is old and well known in the art of automated surveys to utilize drill down survey techniques. It would have been obvious to one of ordinary skill in the art at the time of the invention to include drill-down questions in the automated survey system of Gisby since drill-down questions help you to get a much deeper understanding the survey topic.



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The process helps you to recognize and understand the factors that contribute to it. Drilling down prompts you to link information that you had not initially associated with a problem. It also shows exactly where you need further information.

***Allowable Subject Matter***

12. Claim 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Raissy et al, US 5,703,935 – automated telephone operator services

Sadeghi et al, US 6,687,685 – automated medical decision making utilizing Bayesian network knowledge domain modeling

Fuerst, US 6,189,029 – web survey tool builder and result compiler

Dietz et al, US 6,754,676 – apparatus and method for providing selective views of on-line surveys

Pekkanen, US 6,631,370 – method for data collecting and processing

Hamlin et al, US 6,477,504 – method and apparatus for automating the conduct of surveys over a network system

McAndrew et al, US 5,517,405 – expert system for providing interactive assistance in solving problems such as health care management

Altschuler et al, US 5,005,143 – interactive statistical system and method for predicting expert decisions

Peters et al, US 5,893,098 – system and method for obtaining and collating survey information from a plurality of computer users

Bishop et al, US 4,958,284 – open ended question analysis system and method

O'Donnell, US 6,032,177 – method and apparatus for conducting an interview between a server computer and a respondent computer

Nanos et al, US 6,381,744 – automated survey kiosk

Szlam et al, US 5,309,505 – automated voice system for improving agent efficiency and improving service to parties on hold

Pugh et al, US 5,414,754 – system for providing proactive call services utilizing remote monitors

Boyce et al, US 6,101,241 – telephone-based speech recognition for data collection

Gisby, US 6,118,865 – automated survey control routine in a call center environment

Gisby, US 6,337,904 – automated survey control routine in a call center environment

Beck et al, US 6,138,139 – method and apparatus for supporting diverse interaction paths within multimedia communication center

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14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R. Loftis whose telephone number is 571-272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JL  
3/17/06



**SUSANNA M. DIAZ**  
**PRIMARY EXAMINER**

*AU 3623*